

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who remained in restricted immigration detention for a cumulative period of more than 36 months (three years).

The first report 1002387 was tabled in Parliament on 29 September 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1003465
Date of DIBP's reports	23 September 2015 and 31 March 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002387), Mr X remained at Yongah Hill Immigration Detention Centre.	
16 May 2015	Granted a Bridging visa and released from detention.

Recent visa applications/case progression

14 May 2015	The Department of Immigration and Border Protection (DIBP) notified Mr X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
1 June 2015	DIBP invited Mr X to comment on country and other information in relation to the ITOA. On 17 June 2015 he provided a response.
5 August 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
23 September 2015	Requested judicial review at the Federal Circuit Court (FCC). DIBP advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.
16 May 2016	Granted a Bridging visa.

¹ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

Health and welfare

1 May 2015 – 18 February 2016	International Health and Medical Services (IHMS) advised that Mr X was previously diagnosed with an adjustment disorder and depression and prescribed medication. He attended supportive counselling and self-referred to the mental health team as needed.
2 July 2015	Mr X was diagnosed with high cholesterol and prescribed with medication.
20 August 2015	Provided with nicotine replacement therapy after advising that he wished to cease smoking.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's review he was awaiting the outcome of judicial review.

Mr X's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. On 21 March 2016 the Minister filed a notice in the HC to appeal the FFC's decision.

Mr X was granted a Bridging visa on 16 May 2016 and released from immigration detention.